

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

NO. 4:18-CV-50-FL

ROBERT A. MAGARY, SR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	ORDER
SPRINT NEXTEL CORPORATION,	)	
d/b/a Sprint,	)	
	)	
Defendant.	)	
	)	

This matter comes before the court for review of plaintiff's complaint pursuant to 28 U.S.C. § 1915A. United States Magistrate Judge Robert T. Numbers, II, entered a memorandum and recommendation ("M&R") wherein he recommends that the court dismiss plaintiff's claims for violation of the Due Process Clause of the United States Constitution and violation of the Sherman Act as frivolous and allow plaintiff's claim for breach of contract to proceed. No objections to the M&R have been filed, and the time within which to make any objection has expired. In this posture, the issues raised are ripe for ruling. For the reasons that follow, the court adopts the findings and recommendation of the magistrate judge.

On March 16, 2018, pro se plaintiff moved for leave to proceed in forma pauperis ("IFP"). On March 21, 2018, plaintiff's motion was deemed deficient and plaintiff was ordered to submit materials to bring his filings into compliance with the court's local rules. Plaintiff filed response, but on April 30, 2018, plaintiff's response was also was deemed deficient and plaintiff was ordered to submit additional materials to bring his filings into compliance with the court's local rules.

On May 3, 2018, plaintiff filed amended motion for leave to proceed IFP. On June 1, 2018, the magistrate judge entered M&R to which plaintiff filed no objections but instead filed amended complaint, (DE 11), stating he had “revised [his] complaint to reflect your Recommendations dated 6/1/18 and to make the details more clear and complete.” (DE 11-1 at 1).

Upon careful review of the M&R, plaintiff’s amended complaint, and of the record generally, having found no clear error, the court hereby ADOPTS the recommendation of the magistrate judge as its own, and, for the reasons stated therein, plaintiff’s amended IFP application (DE 7) is granted and the court will allow the first claim for breach of contract against defendant to move forward. The rest of plaintiff’s complaint is dismissed without prejudice. The clerk is DIRECTED to issue summons for defendant.

SO ORDERED, this the 1st day of November, 2018.



LOUISE W. FLANAGAN  
United States District Judge